

Comments on FCC NPRM 02-230

Will the broadcast flag interfere with consumers' ability to make copies of DTV content for their personal use, either on personal video recorders or removable media?

Absolutely Yes! Any measure that restricts fair use is theft. The flag's proponents of the assert that the flag will not interfere with legitimate copying for personal use, but this statement is meaningless, given that the proponents probably do not agree with current law regarding what fair use means. Yet if this interpretation will apply for the flag, then their biased interpretation will continue to permeate public standards and law. The FCC should not cater to private interests - if the FCC takes any sides on the matter of fair use, which is itself controversial, then it should take the side of the general public, and thus fervently oppose such measures.

Would the digital flag interfere with consumers' ability to send DTV content across networks, such as home digital networks connecting digital set top boxes, digital recorders, digital servers and digital display devices?

Yes. How can the proponents assert that the flag will not limit consumers' ability to send content through different devices, when this is exactly what they seek to do with it?

How will I, as the producer of any digital content, control this flag? I want to send digital content to my grandmother. I want her to be able to do anything she wants with the digital content, but suppose I also want to prevent anyone in Hollywood or the common media to get a hold of it. Does the flag help me? I am a producer, too, and so is any taxpayer. You cannot distinguish between "professional" producers and individual citizens, just as I cannot distinguish between the separate rights of anyone who might get hold of the content I produce - certainly not in a single flag.

The future holds many advances in store for us. I expect that I may be able to take content from outside sources, direct it to various devices, such as a display in different rooms. I might also want to self-edit the content so that it is appropriate for my children, in my view, if I think the content is something that would benefit them (teachers may do this for their students, too). I may also wish to show pieces of content to guests, or I may want to gather pieces into a work of art. Currently we are all able to do very similar things with nonelectronic media, and it is all perfectly legal. Future school children will be artists in multimedia as well as on construction paper. Or will they?

With measures such as this, none of this will become reality. The flag will be an issue at every stage, and in every device. By allowing private interests from one area -- big media producers -- to determine this, we'll greatly stifle electronic advancements that might have far greater impact on our lives. It is difficult to imagine how different life would be today, if Xerox machines had been designed 20 years ago to detect the copyright symbol on printed material and refuse to provide a copy. Then it would have been made a crime to white-out the symbol to enable copying. Newer machines would have attempted to address this circumvention technologically. Much of the technology developed would have been made in security, and we'd probably still be copying in black and white today. Yet little impact will have been made against illegal copying, and at the same time millions of works would have been severely limited, especially within academics. It would have been short-sighted,!

too, since literacy levels and interest in written works would have sharply declined, and the declined literacy would have meant declined purchases in literature.

It is not difficult to project a similar scenario onto the future. The private interests in favor of this measure can envision the future, too. But their vision regards superficial notions of profit and market share. I don't think the FCC should be helping to secure these.

Would the broadcast flag requirement limit consumers' ability to use their existing electronic equipment (equipment not built to look for the flag) or make it difficult to use older components with new equipment that is compliant with the broadcast flag standard?

They'll cross that bridge when they come to it. Even if it isn't the case right now, the next step will be to take measures to encourage production of devices compatible only with this standard. They will be very encouraging in this regard.

It will be difficult to distinguish between devices not originally built to look for the flag and devices "rebuilt" to not look for the flag. So these older devices will have to be made illegal or obsolete.

The proponents are steering clear of any statements about the future - even the very near future - when they answer this issue.

Would a broadcast flag requirement limit the development of future equipment providing consumers with new options?

Yes. The proponents' stated intentions are irrelevant. The decision regards the effect it will have on the future of everyone. Dozens of potential electronic devices would be impacted, or may never even sell. The proponents are not considering future technology because it isn't their market. The proponents' market is information, and since they own the private domain, they will naturally seek to envelop the public domain. Millions of schools, colleges and public libraries represent a huge profit potential.

What will be the cost impact, if any, that a broadcast flag requirement would have on consumer electronics equipment?

Of course the cost of production will increase - you're adding complexity. And it would not be at all surprising if a "technology" emerged that electronics producers would have to license in order to make their devices compliant. This cost would certainly be passed on to the buyer - although the measure will have provided zero benefit for the buyer.

Other Comments:

The mission of the FCC is to regulate communications via radio, television, wire, satellite and cable. Yet the flag has no direct bearing on any of these forms of communication - it does not enable it, make it better, enhance it in any way. The FCC's mission is communication -- not regulating the content or use of the content of a communication.

The measure does affect the receiver of the communication and what happens next. The FCC need not become involved in the use of devices that record, edit, or

replay these communications and extend the reach of its concerns into the private everyday lives of taxpayers and purchasers of electronic devices.

The FCC should not adopt a standard that serves no purpose other than securing of profit and market share of private companies in the public domain. This is not consistent with the FCC's mission.

Yet passing this measure would make the FCC inextricably complicit.